

SPENCER FRUIT COMPANY v. NORTHWEST CHOICE, INC.

PACA Docket NO. R-01-0054.

Decision and Order filed May 1, 2001.

Federal inspections S Credibility.

Where two inspections of shipments of cantaloupes on the Hunts Point market were performed by inspectors who pleaded guilty to accepting bribes for the falsification of inspection certificates, but there was no evidence that the firms which received the produce on the Hunt's Point market were involved in the paying of bribes, it was held that Complainant had not submitted sufficient evidence to raise credible doubts as to the integrity of the federal inspections, and the complaint was dismissed.

Complainant, Pro se.

Respondent, Pro se.

George S. Whitten, Presiding Officer.

Decision and Order issued by William G. Jenson, Judicial Officer.

Preliminary Statement

This is a reparation proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. ' 499a *et seq.*). A timely complaint was filed in which Complainant seeks an award of reparation in the amount of \$8,725.50 in connection with transactions in interstate commerce involving six shipments of cantaloupes.

Copies of the Report of Investigation prepared by the Department were served upon the parties. A copy of the formal complaint was served upon Respondent which filed an answer thereto denying liability to Complainant.

The amount claimed in the formal complaint does not exceed \$30,000.00, and therefore the documentary procedure provided in the Rules of Practice (7 C.F.R. ' 47.20) is applicable. Pursuant to this procedure, the verified pleadings of the parties are considered a part of the evidence in the case as is the Department's report of investigation. In addition, the parties were given an opportunity to file evidence in the form of sworn statements, however, neither party did so. Respondent filed a brief.

Findings of Fact

1. Complainant, Spencer Fruit Company, is a partnership composed of Spencer Fruit Company Investors, LP, and Far Western Securities Company. Complainant's address is P. O. Box 1246, Reedley, California 93654-1246.

2. Respondent, Northwest Choice Inc., is a corporation whose address is 2513 Lemaister, Wenatchee, Washington 98801.

3. On or about July 16, through August 17, 1996, Complainant sold to Respondent, and shipped to

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Respondent's customer, Superior Foods, New York, New York, six truck loads of cantaloupes for f.o.b. prices totaling \$27,066.00.

4. Following arrival at destination each of the loads of cantaloupes was federally inspected on the application of L & P Fruit Co., Inc., at their store in Bronx, New York. On the basis of excessive damage disclosed by these inspections the parties negotiated adjustments to the contracts. Pursuant to these adjustments Respondent paid Complainant a total of \$18,340.50 for the six loads of cantaloupes.

5. The formal complaint was filed on April 4, 2000, which was within the time permitted under section 6(a)(1) of the Act, as amended.

Conclusions

Complainant seeks to recover \$8,725.50 which is the total amount of the adjustments granted on six loads of cantaloupes sold to Respondent. Complainant states that "this balance is due to federal inspections done by fraudulent federal inspectors." While this laconic statement leaves much to inference, especially as it regards the liability of Respondent who was not based on the Hunt's Point market, we can dispose of the claim without engaging in imaginative expansion of Complainant's pleading. Only two of the six inspections were clearly performed by an inspector who pled guilty to accepting bribes, the copies supplied of one of the inspections has the name of the inspector clipped off, and the remaining three inspections were signed by an inspector who was not implicated in the bribery. More importantly, there is no proof that either Superior Foods, the apparent purchaser of the cantaloupes from Respondent, or L & P Fruit Co., Inc., the firm that called for all the inspections,¹ was involved in the bribery of federal inspectors through their officers or employees. Complainant has not submitted sufficient evidence to raise credible doubts as to the integrity of the federal inspections relevant to this proceeding. The complaint should be dismissed.

Order

The complaint is dismissed.

Copies of this order shall be served upon the parties.

¹The relationship of L & P Fruit Co., Inc. to Superior Foods, or to Respondent, is nowhere disclosed in the record.